

## Office of Personnel Management

## § 214.402

set forth in section 3132(a) of title 5, United States Code.

*Equivalent position* as used in section 3132(a)(2) of title 5, United States Code, means a position under any pay system where the level of the duties and responsibilities of the position and the rate of pay are comparable to that of a position above GS-15 or at Executive Level IV or V.

*Senior Executive Service* has the meaning given that term by section 2101a of title 5, United States Code, and includes all positions which meet the definition in section 3132(a)(2) of title 5.

[45 FR 62414, Sept. 19, 1980, as amended at 56 FR 18661, Apr. 23, 1991]

### § 214.202 Authority to make determinations.

(a) Each agency is responsible for determining, in accordance with Office of Personnel Management guidelines, which of its positions should be included in the Senior Executive Service.

(b) Agency determinations may be reviewed by the Office of Personnel Management to ensure adherence with law and regulation.

### § 214.203 Reporting requirements.

Agencies shall report such information as may be requested by OPM relating to positions and employees in the Senior Executive Service.

[60 FR 6385, Feb. 2, 1995]

### § 214.204 Interchange agreements.

(a) In accordance with 5 CFR 6.7, OPM and any agency with an executive personnel system essentially equivalent to the Senior Executive Service (SES) may, pursuant to legislative and regulatory authorities, enter into an agreement providing for the movement of persons between the SES and the other system. The agreement shall define the status and tenure that the persons affected shall acquire upon the movement.

(b) Persons eligible for movement must be serving in permanent, continuing positions with career or career-type appointments. They must meet the qualifications requirements of any position to which moved.

(c) An interchange agreement may be discontinued by either party under

such conditions as provided in the agreement.

[60 FR 6385, Feb. 2, 1995]

## Subpart C—Exclusions

### § 214.301 Exclusions.

If not excluded from the Senior Executive Service by section 3132(a) (1) or (2) of title 5, United States Code, an agency, or unit thereof, may be excluded only under the provisions of section 3132 (c) through (f) of title 5.

## Subpart D—Types of Positions

### § 214.401 Types of positions.

There are two types of positions in the Senior Executive Service:

(a) General positions, which may be filled by a career, noncareer, limited emergency, or limited term appointee.

(b) Career reserved positions, which may be filled only by a career appointee.

### § 214.402 Career reserved positions.

(a) The head of each agency is responsible for designating career reserved positions in accordance with the regulations in this section.

(b) A position shall be designated as a career reserved position if:

(1) The position (except a position in the Executive Office of the President):

(i) Was under the Executive Schedule, or the rate of basic pay was determined by reference to the Executive Schedule, on October 12, 1978;

(ii) Was specifically required under section 2102 of title 5, United States Code, or otherwise required by law to be in the competitive service; and

(iii) Entailed direct responsibility to the public for the management or operation of particular government programs or functions; or

(2) The position must be filled by a career appointee to ensure impartiality, or the public's confidence in the impartiality, of the Government.

(c) The head of an agency shall use the following criteria in determining whether paragraph (b)(2) of this section is applicable to an individual position:

(1) Career reserved positions include positions the principal duties of which involve day-to-day operations, without